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14 ARISTA NETWORKS, INC.

15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 SAN JOSE DIVISION

18 CISCO SYSTEMS, INC.,

19 Plaintiff,

20 v.

21 ARISTA NETWORKS, INC.,

22 Defendant.
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Case No. 5:14-cv-05344-BLF (NC)

**ARISTA'S ADMINISTRATIVE MOTION
TO SEAL/REDACT PORTIONS OF
PRETRIAL CONFERENCE
TRANSCRIPT**

Judge: Hon. Beth Labson Freeman

Date Filed: December 5, 2014

Trial Date: November 21, 2016

Pursuant to the Northern District of California’s Civil Local Rules 7-11 and 79-5(d)-(e), and General Order 59, Defendant Arista Networks, Inc. respectfully submits this administrative motion to seal and redact portions of the pretrial conference transcript that disclose confidential portions of an ITC opinion.

Arista seeks to seal and redact the following portions of the pretrial conference transcript:

- page 59 lines 22–25
- page 60 lines 1–2
- page 62 lines 12–16
- page 65 lines 11–17
- page 66 lines 2–4 and 8–17
- page 93 lines 19–20 and 23

For the Court’s convenience, Arista has filed a highlighted version of the transcript under seal indicating the portions Arista seeks to seal as Exhibit A to the Declaration of Eduardo E. Santacana filed herewith.

Because this motion to redact and seal relates to a non-dispositive motion, the documents and information that the parties request to file under seal are not subject to a strong presumption of public access. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). Rather, the “good cause” standard of Rule 26(c) of the Federal Rules of Civil Procedure applies to the material that Arista seeks to file under seal. *Id.* at 1179. Civil Local Rule 79-5 further requires that a party seeking to seal information and documents “establish[] that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law.” Civil L.R. 79-5(b). The sealing request must also “be narrowly tailored to seek sealing only of sealable material.” *Id.*

Arista seeks to seal the portions of the pretrial conference transcript that disclose confidential portions of the International Trade Commission’s “Commission Opinion.” The sealing or not of portions of that Opinion have been the subject of vigorous litigation at the ITC. The result of that litigation was the ITC’s “Public Version” of its Opinion. *See Santacana Decl.*, Ex. B. At the Federal Circuit, after Cisco attempted to unseal portions of the Opinion, the Federal

1 Circuit recognized that the sealing of its own Opinions is a “matter of great institutional concern
2 to the Commission,” and so remanded the question to the Commission to decide in the first
3 instance. *See* Santacana Decl., Ex. C. The matter is currently pending.

4 There is good cause to seal the portions of the pretrial conference transcript identified
5 above. The ITC’s rules allow for speedy and broad discovery, and in exchange provide for strict
6 confidentiality of the information disclosed in those proceedings. The Commission has an
7 institutional interest in ensuring the confidentiality of certain portions of its own Opinions, and it
8 has already made a determination that the portions discussed during the pretrial conference should
9 remain under seal. Accordingly, there is good cause to seal them here.

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11 Dated: November 16, 2016

KEKER & VAN NEST LLP

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14 By: /s/ Brian L. Ferrall
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17 ARISTA NETWORKS, INC.
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